

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 972

(Chair, Environmental Matters Committee) (By Request –
Departmental – Natural Resources)

Environmental Matters

Education, Health, and Environmental Affairs

Forest Conservation - Reporting and Enforcement

This departmental bill requires a local authority engaging in enforcement activity related to forest conservation to give notice to the Department of Natural Resources within 15 days after the start of the activity. In addition, the bill also expands the information DNR must include in its annual statewide forest conservation report that is compiled from local reports and submitted to specified General Assembly committees.

Fiscal Summary

State Effect: The bill would not materially affect State operations or finances.

Local Effect: The bill's changes could be handled with existing local resources. One of the bill's changes relates to providing certain data to DNR in an electronic geographic information system or computer aided design format. DNR advises that local governments that already have the data in those formats would just send those files to DNR to be added to the master State database. Because this is only required to the extent practicable, it is not anticipated to result in a significant increase in workload or costs to local jurisdictions.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law:

Enforcement of the Forest Conservation Act

In addition to the enforcement authority granted to DNR, the enforcement provisions in State law may be exercised by any local authority that has adopted a forest conservation program, in addition to any enforcement provisions available to the local authority.

DNR or a local authority is authorized to revoke an approved forest conservation plan for cause, including violation of conditions of the plan, obtaining a plan approval by misrepresentation, failing to disclose a relevant or material fact, or change in conditions. DNR or a local authority must notify the violator in writing and provide an opportunity for a hearing. DNR or a local authority may issue a stop work order against any person who violates the Forest Conservation Act or any regulation, order, approved plan, or management agreement.

A person who violates the Forest Conservation Act is liable for a penalty not exceeding \$1,000 which may be recovered in a civil action brought by DNR or a local authority. Each day is a separate violation. The court may issue an injunction requiring the person to cease the violation and take corrective action to restore or reforest an area.

Any person who is found to be in noncompliance with the Forest Conservation Act shall be assessed by DNR or the local authority the penalty of 30 cents per square foot of the area found to be in noncompliance with required forest conservation. Such penalties are paid into the appropriate local or State Forest Conservation Fund.

Reporting Requirements

DNR is required to submit an annual report to specified committees of the General Assembly. The statewide report, which is compiled from local authorities' reports to DNR, addresses • the number, location, and type of projects subject to the Forest Conservation Act; • the amount and location of areas cleared, conserved, and planted in connection with a development project; • the amount of reforestation and afforestation fees and noncompliance penalties collected and expended; • the costs of implementing the program; and • the size, location, and protection of any local forest mitigation banks created under a local or State program.

Background: Although current law authorizes local authorities to conduct enforcement and requires local authorities to submit annual reports containing information on forest

conservation plan submittals, current law does not require, as this bill would, local authorities to notify DNR of enforcement actions taken or report on the number or type of enforcement actions taken. The StateStat team has requested that DNR require local authorities to include information on the enforcement of the Forest Conservation Act in their annual reports. The StateStat team also expressed concern regarding the lack of departmental oversight with respect to local enforcement of the Forest Conservation Act. This legislation is intended to address those concerns.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland-National Capital Park and Planning Commission, Montgomery County, Prince George's County, Department of Legislative Services

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mll/lgc

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